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Second Session

SECOND COMMITTEE

PROVISIONAL SUMMARY RECORD OF THE TWENTY-SECOND MEETING

Held at the Parque Central, Caracas,
on Wednesday, 31 July 1974, at 3.10 p.m.

Chairman:	Mr. AGUILAR	Venezuela
later:	Mr. PISK	Czechoslovakia
Rapporteur:	Mr. NANDAN	Fiji

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CONTINENTAL SHELF (A/9021) (continued)

Mr. NIMER (Bahrain) outlined the historical background of the concept of the continental shelf. In particular, he referred to the text adopted by the International Law Commission which had laid the ground for the definition of continental shelf areas subject to the control and jurisdiction of coastal States contained in article 1 of the 1958 Geneva Convention, and subsequently confirmed by the judgement of the International Court of Justice in the North Sea Continental Shelf Case. In a Government proclamation of 5 June 1965, his country had declared that the sea-bed and subsoil beneath the high seas contiguous to its territorial waters and extending seaward to boundaries which had subsequently been agreed with neighbouring States, belonged to Bahrain and were subject to its absolute jurisdiction and authority. The proclamation expressly provided that the high seas character of the superjacent waters outside the territorial belt and the fishing and other traditional rights in such waters, would not be affected.

His delegation supported retention of the doctrine of the continental shelf and the exercise of the rights specified therein, as defined in bilateral agreements or in accordance with the principles laid down in the 1958 Geneva Convention on the Continental Shelf. The doctrine of the economic zone, if eventually adopted, should not affect continental shelf rights since it was a subsequent formulation of additional coastal State rights over the living resources of superjacent waters. The application of the economic zone doctrine in geographically disadvantaged areas and semi-enclosed seas would lead to difficulties of distribution which could probably be settled only by regional agreements based on equitable principles.

EXCLUSIVE ECONOMIC ZONE BEYOND THE TERRITORIAL SEA (A/9021; A/CONF.62/L.4; A/CONF.62/C.2/L.21)

Mr. HERRERA (Honduras) said that his country claimed inherent rights over the resources in its adjacent zones and had established control over hunting, fishing and other exploitation in those waters. Foreign States had no competence in those zones except on the basis of agreement with the coastal State. His country supported the principle that the outer limit of the territorial sea had never constituted a limit on the inherent right of States over their resources. Free and unimpeded activities in the adjacent zones were a conventional rather than a customary freedom, which was binding only on States parties to a treaty relating to those zones.

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(Mr. Herrera, Honduras)

Honduras was not a party to any treaty which would have limited its rights over the resources of its adjacent zone. It was prepared to negotiate on the understanding that any limit it accepted in connexion with that zone would be a freely conceded restriction on its rights and not a concession by a group of States who took advantage of a conventional freedom to fish in order to plunder the seas. His delegation considered that the resources of the sea-bed and ocean floor and those of the superjacent waters should be covered by the same régime, without prejudice to the competence of the coastal State with regard to the continental shelf and the regulation of high seas fishing.

The concept of a contiguous zone should disappear on establishment of an exclusive economic zone beyond the territorial sea except in the case of States with a territorial sea of less than 12 miles. However, his delegation strongly disagreed with the view that the disappearance of the concept of the contiguous zone entailed the disappearance of certain traditionally related competences which were complementary to the competence of States in the economic zone. The economic zone and the contiguous zone coincided in the sense that they were subject to the functional competences deriving from the sovereignty of the coastal State. In the economic zone those functions related to resources, while in the contiguous zone they related to police, customs and other matters. Some of those functions should be redefined in the light of the rights to be protected in the exclusive economic zone and should be included in the sovereign competence of the coastal State as regards fisheries control, protection of the marine environment, control of scientific research and national security.

For practical purposes, competence on sanitary matters need not be taken into account in the exclusive economic zone. However, it was necessary to define the scope of the security measures which a State might adopt. The issue had been discussed at other conferences and should be defined in the Convention being negotiated, particularly with regard to protection of the coastal State from threats to its inherent rights over resources. Provisions should be included to ensure that freedoms recognized in the zone would be subject to the limitations resulting from exercise by the coastal State of those rights in a zone of 188 nautical miles from the outer edge of a territorial sea of 12 nautical miles. There should be close collaboration with the relevant international agencies with regard to measures to be adopted by the coastal State in that respect.

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(Mr. Herrera, Honduras)

His delegation considered that the economic zone should be regarded as a zone of functional competences in which the coastal State, by virtue of its sovereight rights over the resources therein, would also exercise legislative and judicial competence to prevent infringements of those rights.

That would involve a redefinition of the concept of "hot pursuit"; since the establishment of zones of functional competence would entail the limitation of high seas areas and areas where that right was traditionally exercised, its continued exercise in those areas should be regulated in regional, subregional or bilateral agreements. Freedom of navigation, overflight, the laying of submarine cables and pipelines should be maintained in the zone of functional competence, taking into account the rights of the coastal States over the resources therein. International machinery should be set up to settle disputes arising from abuse of rights or freedoms in that marine area. A functional approach to all the competences deriving from the inherent rights of the coastal State over its resources could be a basis for reconciling the concepts of a territorial sea of 200 miles and an economic zone or patrimonial sea of the same breadth.

His delegation was studying the draft articles on the economic zone contained in document A/CONF.62/C.2/L.21 and A/CONF.62/L.4. In general terms it agreed with the philosophy of both documents, although the Nigerian formulation was more in line with his country's point of view.

Mr. OGUNDERE (Nigeria) introduced his country's draft articles on the exclusive economic zone (A/CONF.62/C.2/L.21), which sought to achieve an equitable balance between the rights and duties of the coastal States and other States.

His delegation had given careful study to all the proposals and draft articles submitted to the Sea-Bed Committee, in particular, those contained in documents A/AC.138/SC.II/L.14, L.27, L.35, L.36, L.37 and L.39, as well as to the nine-Power working paper sponsored by Canada and others and contained in document A/CONF.62/L.4.

Turning to document A/CONF.62/C.2/L.21, he said that, in the view of his delegation, the 200 nautical mile limit to the exclusive economic zone contained in article 1, paragraph 1, reflected the consensus formula on that issue. Provisions for the delimitation of the exclusive economic zone between adjoining or opposite States had not been included because the principles which applied to the delimitation of the territorial sea between such States were applicable in that regard mutatis mutandis, and the principles of law with regard to the delimitation of the continental shelf were still being negotiated.

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(Mr. Ogundere, Nigeria)

In paragraph 2 (a) of article 1, provision had been made for the coastal State's "exclusive right" to explore and exploit the renewable living resource of the sea and the sea-bed. Some delegations might have preferred the term "sovereign rights", but his delegation considered that the concept of "sovereign rights" was inappropriate to cover fish which might move from the territorial sea of one State to another or to the high seas within a single day.

Article 1, paragraph 2 (d) contained provisions for exclusive coastal State jurisdiction over ancillary matters and also for the functional requirements of the contiguous zone. Referring to paragraph 3, he indicated that the word "artificial" should be inserted between "off-shore" and "islands" in line 3.

The provisions of paragraph 2 of article 2 had been drafted in the light of the requirements of land-locked or geographically disadvantaged States. The word "competence" had been used but his delegation would agree to substitute the word "right" to accommodate those who had expressed preference for that word.

His delegation would prefer that the problem of the protection, conservation and utilization of fish resources in the economic zone be tackled comprehensively when fisheries in general were considered. However, another subparagraph might be added to paragraph 2 of article 1 reading as follows: "In exercise of its rights of protection and conservation of the renewable living resources therein, the coastal States shall ensure that:

(i) the maximum sustainable yield is adequately utilized either by itself or by granting exploitation licences to other States, and

(ii) its conservation measures are formulated and executed in such a way as to take into account the recommendations of appropriate international or regional fisheries organizations."

His delegation had been much encouraged by the favourable response of many African, Asian, European and Latin American delegations to its draft articles and, in particular, by the support of the representative of Honduras at the present meeting.

Mr. LIMPO SERRA (Portugal) said that his delegation favoured the establishment of an economic zone beyond the territorial sea and extending to a maximum 200 nautical miles from baselines, in which the coastal State would have exclusive exploitation rights over all natural resources, including the resources of the sea-bed and subsoil

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(Mr. Limpo Serra, Portugal)

thereof. The establishment of that zone would not alter in any way the sovereign rights of the coastal State over a 12-mile territorial sea, except in respect of the right of innocent passage.

The exclusivity of the economic zone should be confined to the exploitation of the natural resources therein, although the coastal State should have related powers, particularly with regard to pollution control. Freedom of navigation, overflight, the laying of submarine cables and pipelines should be maintained. His delegation would not favour allocation to the coastal State of the powers it enjoyed in the contiguous zone under the Geneva Convention, since that might interfere with freedom of navigation. His delegation might accept allocation of such powers in a zone contiguous to the territorial sea not exceeding half the breadth of that sea, that was to say, to a limit of 18 nautical miles from the baselines of the coast.

Delimitation of economic zones between adjacent or opposite States should be based on the median line criterion, except by agreement between those States.

The exclusive economic zone should have an international as well as a national character and other States should be allowed to exploit excess fishery resources therein on reasonable conditions. An international commission comprising interested States might be established to assist the coastal State in the administration of the resources of the zone.

Mr. CASTAÑEDA (Mexico) said that his delegation had presented its general views on the economic zone to the Preparatory Committee and consequently would refer only to new proposals on the subject.

The draft articles in document A/CONF.62/L.4, of which his delegation was a sponsor, constituted a package solution in which the various arrangements proposed were indissolubly interrelated. For example, the proposed 12-mile limit for the territorial sea presupposed acceptance of an economic zone of 200 miles.

He wished to draw special attention to the differences between the régime for the territorial sea and that governing the economic zone, as spelled out in document A/CONF.62/L.4. In the territorial sea, the coastal State would exercise the same kind of sovereignty as over its land territory. In the economic zone, however, it would exercise sovereign rights over its resources but not over the zone itself, and must take into consideration the rights of other States in respect of freedom of navigation and overflight and the legitimate uses of the sea. In that zone it had discretionary powers over the emplacement and use of artificial islands and installations by other

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(Mr. Castañeda, Mexico)

There appeared to be two different schools of thought concerning the relationship between the régime for the economic zone and that for the continental shelf. According to one view, the latter should be subsumed under the former. The second view, which was reflected in document A/CONF.62/L.4, was based on the premise that the two régimes were distinct from each other and should coexist. Accordingly, article 19 followed the lines of the 1958 Geneva Convention and provided that the coastal State should exercise sovereign rights over the continental shelf, which should be regarded as a natural extension of its land territory. In other words, the coastal State would exercise rights over the continental shelf that would be greater in scope than those it enjoyed in the economic zone. In some cases, both régimes might apply to the same area.

He recalled that the representative of Kenya had stated earlier that the definition of the outer edge of the continental shelf as the natural prolongation of the continental land territory was not part of existing law. While the exploitability criterion of the 1958 Geneva Convention on the Continental Shelf had a number of disadvantages, there were none the less grounds for maintaining that it was part of international law and that States with a continental shelf extending beyond 200 miles could hardly be expected to give up their acquired rights. Indeed, since a number of States had acquired rights under that Convention, any solution which was not based on a combination of the distance and the geomorphological criteria would be unrealistic.

Mr. Ask (Czechoslovakia) took the Chair.

Mr. GOERNER (German Democratic Republic) said that the question of the legal régime for the breadth of the economic zone was one of the most difficult issues before the Conference. The establishment of economic zones would have immediate effects on the economies of most States, and it was therefore understandable that Governments wished to examine the consequences of the new concept before giving their consent to the results of negotiations.

In accordance with its basic position of lending active support to the States of Asia, Africa and Latin America for the strengthening of their political and economic independence, his country was fully sympathetic to the proposals of the developing countries favouring the establishment of an economic zone. The German Democratic

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(Mr. Goerner, German Democratic Republic)

Republic had a small coast with very limited resources and could establish only a very narrow economic zone. On the other hand, it depended essentially on its long-range fishing fleet to supply its population with fish products. It therefore supported the idea of a régime for the economic zone which would give due regard to the interests of both coastal and other States, particularly the geographically disadvantaged States.

The breadth of the economic zone should not exceed 200 nautical miles measured from the same baseline as the territorial sea. The coastal State should exercise its rights with due regard to the interests of all mankind, observing in particular the freedoms of navigation, overflight and basic scientific research and the freedom to lay cables and pipelines. The coastal State's exercise of sovereign rights over its living and mineral resources should not extend beyond an economic zone of 200 nautical miles. Concessions of the kind suggested in document A/CONF.62/L.4 would widen unjustifiably the already broad gap between geographically privileged and geographically disadvantaged States.

On the question of the equitable distribution of the living resources, his delegation believed that a coastal State should be obliged to guarantee fishermen of other countries access to its economic zone if it was not in a position to fish 100 per cent of the admissible catch of a species. He reminded the members of the Committee that the recent judgement of the International Court of Justice in the fisheries jurisdiction case between the United Kingdom and Iceland was based on the premise that the coastal State should pay heed to the interests of other States in the conservation and exploitation of living resources, particularly in respect of the traditional fishing rights of other States. He advocated co-operation between coastal States and the regional fishery organizations, which were highly experienced in the conservation and utilization of fish stocks and could give valuable assistance. Effective measures for the conservation and increase of the living resources in the sea were only possible if all interested States co-operated on an international scale. The coastal States should take particular notice of the recommendations of the fishery organizations on the size of catch allowed for each species and the annual quota for States entitled to fish in the zone.

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(Mr. Goerner, German Democratic Republic)

The coastal States should enjoy sovereign rights in respect of the exploration and exploitation of the mineral resources in the economic zone. In the interest of laying down a uniform maximum breadth for the zone in which the coastal State exercised sovereign rights, it would be advisable for the future convention to stipulate that a coastal State could not extend its jurisdiction over the sea-bed beyond the economic zone of 200 nautical miles. In view of the different geological structures of the continents and oceans, it was not justifiable to consider the natural sea-bed extension of the land domain, with its various geomorphological forms, as a decisive criterion in delimiting the area of national jurisdiction.

Mr. IBLER (Yugoslavia) said that the new concept of the economic zone did not mean that the developed countries would be excluded from an adequate use of the sea and its resources; on the contrary, in the interdependent world of today, the establishment of the economic zone should ensure a more equitable distribution of the sea's wealth. It was especially timely that the question of the economic zone was being considered immediately after the successful sixth special session of the United Nations General Assembly, the theme of which had also been bound up with the economic development of the third world.

Yugoslavia had supported the concept of an economic zone from the very beginning. It believed the Conference had now reached the stage when legal norms should be formulated. It was first of all essential to determine the breadth of the future economic zone. His delegation favoured a breadth of 200 nautical miles which would encompass the sea-bed and its subsoil as well as the superjacent water column. That would ensure the full utilization of the sea and its resources and the unimpeded development of the developing countries.

Coastal States should be given the exclusive right to exploit all living and non-living resources of the zone, and the exclusive right of economic benefit from non-resource uses of the sea.

Scientific research and exploration were closely related to the right of exploitation and must not be carried out without the explicit consent of the coastal State.

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(Mr. Ibler, Yugoslavia)

Coastal States should be under the obligation to take all necessary measures to protect their marine environment and exclusive economic zone from pollution, regardless of its source. In issuing regulations, coastal States should take into account maximum international standards and, in the case of especially vulnerable areas, should be entitled to prescribe more rigorous norms. There must be regional and bilateral co-operation in combating pollution.

Where the creation of an economic zone of 200 nautical miles was not possible, recourse to regional arrangements could solve the problems connected with the rights and duties of the coastal States. That arrangement should take into account the legitimate interest of all the countries concerned, particularly the land-locked and geographically disadvantaged countries.

The régime for the economic zone should incorporate guarantees of freedom of navigation for ships of all flags without discrimination, freedom of overflight and freedom to lay submarine cables and pipelines.

Mr. KAFANDO (Upper Volta) said that his country had had initial misgivings about the establishment of an economic zone, which would take away a considerable part of the international area of the high seas and place it under national jurisdiction. Nevertheless, it fully understood the motives of those who supported the concept and had reached the conclusion that the establishment of such a zone was an economic necessity. In view of its land-locked situation, however, Upper Volta could only give its approval on two conditions: firstly, provision must be made in a multilateral convention for access to the sea by the land-locked countries as a sacrosanct right; secondly, the land-locked countries should be entitled to participate in the exploitation of the resources of the economic zone.

The régime for the zone, which would be exclusively economic in nature, must be far more flexible than that governing the territorial sea. In the economic zone, the coastal State should be guaranteed: (a) control over the resources; (b) freedom to levy taxes or collect royalties from third States other than the land-locked countries, with which it should conclude exploitation agreements; (c) the right to search vessels engaged in illegal activities. On the other hand, the coastal State must assume obligations in the following areas: (a) prevention of hazards that might impede the free passage of ships belonging to third States; (b) navigation control; (c) sanitary precautions; (d) pollution control; (e) suppression of smuggling, particularly the smuggling of drugs.

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(Mr. Kafando, Upper Volta)

The question of the right to pursue schools of fish raised various thorny problems. His delegation believed, for example, that the coastal State should not be entitled to pursue anadromous species outside the economic zone; that would make nonsense of the common heritage of mankind principle, which was already seriously undermined by the selfish distribution of the seas by the coastal States. Rather, the coastal State should endeavour to ensure that its marine fauna remained within the limits of its national jurisdiction. Those land-locked countries whose rights were recognized in the economic zone should participate in such conservation efforts.

The economic zone should not extend for more than 200 nautical miles; the acceptance of such a breadth was a compromise which represented a major concession on the part of countries that wanted to retain the high seas as an international area.

The same limit of national jurisdiction should apply to the continental shelf. It was paradoxical that, in spite of unanimous agreement that the old law of the sea was obsolete, certain States wished to cling to the rights they had acquired under the 1958 Geneva Convention. The Conference must decide either to retain the old law of the sea and merely revise it, or to create a new one; but there could be no half-way house.

In any event, debate on that subject had been superseded by the adoption of the United Nations resolution embodying the common heritage of mankind principle, under which consideration must be given to the welfare of generations as yet unborn. Upper Volta attached great importance to that principle and would oppose any attempts to diminish its import simply to pander to the greed of coastal States.

Mr. RANJEVA (Madagascar) said it appeared that all States participating in the Conference accepted the concept of the economic zone. However, the various statements made on the questions of the territorial sea and the continental shelf had convinced his delegation of the need for a unified approach, in view of the divergencies with regard to the rights accruing from the establishment of an economic zone.

For his delegation, the economic zone constituted a type of space within the national maritime zone over which the coastal State should exercise sovereign rights. The economic zone should embrace the continental shelf, the exclusive fishery zone as well as the economic activities carried out in the territorial sea; within the economic zone, the State should have the right to institute subcategories, such as the continental shelf and the fishery zone, corresponding to special legal régimes in

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(Mr. Ranjeva, Madagascar)

accordance with its needs. Recalling the OAU Declaration (A/CONF.62/33), he said that the legitimacy of establishing such an economic zone was not disputed.

That zone should lie within the national maritime zone, in other words, it should not extend beyond 200 miles from the applicable baselines.

The delimitation of economic zones between opposite States should, in the absence of agreement, be submitted to peaceful settlement procedures: disputes should be settled on an equitable basis, since the principle of equidistance could no longer be considered the only criterion for delimiting the zone. That principle was based on a legal fiction - the theoretical equality of States, and it should not, for example, be used for the purposes of delimitation between a developed and a developing country.

The same principles of equity should govern the establishment of a special régime for small islands, account being taken of their surface, population, contiguity to the principal territory, and geological structure. Sovereignty over uninhabited islands could serve only as a pretext to further the selfish interests of States, whether individual or collective.

In his delegation's view, the coastal State should have exclusive rights to exploit the resources lying beyond the limit of national jurisdiction, within reasonable limits of distance and depth. However, because of the international character of the zone affected, that right should be exercised only under the control of the international authority.

Once the economic zone had been defined spacially, it was urgent to define the economic rights and obligations of the coastal State within that zone. There appeared to be general agreement that the rights of the coastal State should not include rights of ownership over that zone. The sovereign rights of a coastal State within that maritime zone were set forth succinctly in the draft articles submitted by Nigeria (A/CONF.62/C.2/L.21); the fundamental principles aside, however, his delegation regretted the efforts made to detract from the rights of the coastal State by the introduction of contradictory elements.

One contradiction lay in the desire to limit that sovereignty to particular fields, by affirming that the coastal State had sovereignty and preventing it at the same time from fully exercising that sovereignty.

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(Mr. Ranjeva, Madagascar)

There was another contradiction in proposals to limit those sovereign rights to the economic field, since it was difficult to dissociate economic matters from other State activities. In his delegation's view, the coastal State should exercise full sovereignty within the economic zone.

It acknowledged, however, that rules should be formulated which would define the requirements of the international community, as well as those of commerce, freedom of navigation and overflight and the laying of cables and pipelines, arrangements for which should be clearly laid down. However, such activities involved an obligation on the part of the user, since they must not in any way harm the coastal State, which would be fully justified in taking measures to protect itself.

On the other hand, the coastal State must conform to international law in its economic activities within its zone in respect of the preservation of species, the protection of the environment and scientific research. Only under such conditions, could young States feel solidarity with the international community and be able to discharge fully their international obligations.

Mr. GODOY FIGUEREDO (Paraguay) said that his delegation, together with certain others, would soon formally submit draft articles on the exclusive economic zone and other items.

It was no coincidence that 30 per cent of the countries with a relatively low level of economic development belonged to the group of land-locked States, which included Paraguay; that fact was a direct consequence of the geographical disadvantages from which they suffered. His delegation wished to make it quite clear that the land-locked and geographically disadvantaged States were neither asking for nor would accept mere crumbs. Their requests for participation on an equal basis with the coastal States of the respective regions in the exploration and exploitation of all the natural resources of the economic zone, reflected a natural and inalienable right, the full recognition of which would be the only acceptable confirmation of the recognition already expressed verbally by the vast majority of delegations.

Such recognition would depend entirely upon the spirit of goodwill, good neighbourliness and equity among the States of the respective regions. While the large majority of them were developing States, their potential resources, if wisely used, would enable them to overcome in the not too distant future many of their basic difficulties. It was precisely in recognition of the difficulties experienced by the developing

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(Mr. Godoy Figueredo, Paraguay)

coastal States and their legitimate right to protect the resources in their economic zone for the benefit of their peoples, that his country supported the requests of the developing States.

The requests of the developing land-locked States could in no way be interpreted as a threat, whether actual or potential, to the security or the development of the coastal States within the same region, much less to States in other regions. Such an interpretation could only be described as somewhat puerile and unrealistic. By the same token, his delegation firmly rejected any allegations of collusion with the highly developed countries: the fact that their position was in certain cases similar to those of his own country was a mere coincidence.

In that connexion he recalled the statement he had made in the plenary meeting in connexion with the territorial sea, in which his country had dissociated itself from those Powers which, in rejecting the 200-mile territorial sea, pursued objectives harmful to the security and interests of the developing coastal States. In saying that, he wished finally to dispel any doubts with regard to the sincerity of his delegation's position.

As to the limit and the régime to be applied in the economic zone, his delegation maintained its position that the zone should not extend beyond 200 miles - a distance that should be coextensive with the continental shelf, namely, the sea-bed and the subsoil, together with the water column and the surface of the sea. Such uniformity would offer decisive practical and legal advantages.

In order to foster world trade, navigation and overflight should remain unrestricted within the economic zone, subject of course to full respect for the rules established by the coastal States in their exercise of jurisdiction over the zone.

Scientific research should also remain unhindered, with equal participation both in the activities and the results by the coastal States and land-locked States of the region. Such an approach would undoubtedly be of direct benefit to mankind.

His delegation was aware of the enormous responsibility assumed by coastal States, and by land-locked States having access to the economic zone, for the protection of marine species, preservation of the marine environment and the prudent exploitation of the non-renewable resources of their respective zones.

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(Mr. Figueredo, Paraguay)

Those States had assumed the responsibility of upholding the trust of the peoples of the world; and that trust should supplement, if necessary, the duties assigned to the authority that would administer the international zone.

The most equitable means of ensuring the effective participation of land-locked and geographically disadvantaged States in the exploration and exploitation of the resources of the economic zone was the establishment of joint projects, or binational or subregional enterprises, for the specific purpose of exploiting the mineral resources, the profits from which would be distributed in proportion to the contributions and needs of the States involved. The machinery and operating methods of such enterprises should be determined by mutual agreement among those States, with due regard to the relevant provisions of the convention to be adopted at the Conference, and any other relevant provisions of the various international instruments relating to the sea.

The implementation of the proposals which he had outlined would lead to greater integration and to sustained and harmonious development for the benefit of the peoples concerned.

Mr. KALONDJI TSCHIKALA (Zaire), recalling the OAU Declaration (A/CONF.62/33), section C of which concerned the exclusive economic zone, said that the zone was a new global concept which, in addition to granting rights to coastal States, gave rise to obligations on the part of both the international community and the land-locked and disadvantaged States of the region.

The basic principles relating to the economic zone were laid down in the Declaration of Principles in General Assembly resolution 2749 (XXV), which granted all States equal rights to participate in the exploitation of the sea without regard to their geographical situation.

The land-locked and geographically disadvantaged States should not be excluded from exploiting the living resources of the economic zone, especially in view of the fact that the zone would cover an area that was previously high seas; coastal States should accordingly recognize the traditional rights that other States in the same region had acquired with respect to that zone. Such a principle should not, however, apply in the case of rights acquired under colonialism.

The economic zone must enable the coastal State to protect its resources from incursions by other States.

The coastal States of a region should grant preferential rights to each other in their respective economic zones. His country would not therefore subscribe to the concept

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(Mr. Kalondji Tschikala, Zaire)

of an exclusive economic zone that did not clearly guarantee the rights of the land-locked and geographically disadvantaged States to participate in exploiting the resources thereir

The argument put forward by many delegations that the continental shelf extended beyond the 200-mile limit gave rise to much uncertainty as to where the shelf actually ended: a number of criteria, relating to depth, geomorphology, the natural prolongation of the territory, and so on, had been put forward. Such uncertainty brought the possibility of conflict.

In the delimitation of the zone in the case of opposite States, his delegation supported the concept of the natural prolongation of the territory, since the principle of equidistance was no longer adequate. However, that approach could lead to untenable positions, for it might mean that the terrestrial frontiers of States could in some cases be extended to the natural frontiers.

In the same way that the jurisdiction of States was limited by that of neighbouring States, so in the sea, their jurisdiction should be limited by the jurisdiction of neighbouring States and of the international authority. Legal claims should be based not on power but on right, not on fact but on principle.

The principle of the common heritage of mankind was of great importance to his delegation. Any application of the exploitability criterion would leave for the common heritage merely those areas that were unexploitable and therefore of little value. The only criterion should be that of distance. It was logical for the limits of the continental shelf and the economic zone to coincide, as in the definition submitted by the delegations of Australia and Norway. Consequently, the shelf as a separate entity would disappear. Those States that claimed acquired rights over the continental shelf were doing so under the 1958 Convention that was now being reviewed.

A clear distinction should be drawn between the 200-metre isobath criterion and the exploitability criterion. Beyond the 200-metre isobath, jurisdiction should rest with the international authority. With regard to the exploitability criterion, however, the situation of individual States should be recognized: the only criterion of exploitabilit should be that of actual exploitation.

All questions relating to rights extending beyond the economic zone should be transmitted to the First Committee. One possibility was that exploitation beyond the 200-metre isobath should entail an equitable redistribution of the profits.

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Mr. BAYONNE (Congo) said that his country supported the idea of the exclusive economic zone. The new law of the sea now being prepared would be pointless and useless unless it provided for present-day conditions. The aim should be a law that would be implemented because it was accepted by the whole international community. The congenital malformations of the 1958 Convention must be avoided and its ill-defined ideas replaced by properly formulated notions based on the real needs of international society.

Africa supported an exclusive economic zone extending no further than 200 miles from the coast. That new concept might help in redefining notions such as the continental shelf, to the extent that it recognized the rights accorded to the coastal State under the Geneva Convention. Provision for special conditions could be discussed in the course of debate. The African countries' notion of the exclusive economic zone was a comprehensive one, embodying the rights and duties of the coastal State as well as the safeguarding of its security and economy. The zone was inseparably linked with the idea of the territorial sea in the protection of resources. His delegation had refrained from supporting the idea of a 12-mile territorial sea, since that would not help to protect the interests of a developing coastal State which had a territorial sea of 30 miles which did not cover the whole of its continental shelf and whose economic security was constantly threatened.

Experience and practice in the Latin American countries showed that a zone of 200 miles, under national sovereignty, would be a reasonable way of protecting a developing coastal State's resources. His country reserved the right to extend the sea space under its sovereignty as long as there was no agreement on measures favourable to its vital interests and its economic security. His country's support for the concept of the exclusive economic zone would be meaningless if the positive substance of the idea were sacrificed to the freedom of the seas.

He suggested that the following principles should be observed concerning the exclusive economic zone. The developing coastal State should have permanent sovereignty over its national resources, in particular living and non-living marine resources. No State should be subjected to economic, political or other pressure to prevent the full and free exercise of its inalienable right of sovereignty. The coastal State's right to regulate and supervise all activities in the exclusive economic zone should be assured by the adoption of measures to ensure its safety and economic security, the management and rational utilization of national maritime resources, the protection of

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(Mr. Bayonne, Congo)

the marine environment from all forms and sources of pollution and better organization of scientific research. Such measures should also promote regional co-operation in conserving marine resources and preventing and eliminating pollution. Regional co-operation should include the right of land-locked States to participate in the exploitation of the biological resources of the economic zone on an equal footing with nationals of the coastal State, under bilateral or regional agreements. However, economic co-operation in any field should be free from any kind of association which would perpetuate existing systems of plundering the resources of developing countries. There should be no place for multinational societies or foreign capitalist monopolies.

Measures taken by the coastal State to protect the marine resources of the adjacent zone - as in the case of regional economic co-operation - should be regarded as part of the development process.

In addition to regional co-operation, he envisaged international co-operation. However, any intervention in the economic zone should respect the new ethic of development, in accordance with which the sea should be looked upon as a privileged area for the developing countries in their efforts to free themselves from economic domination and obtain compensation for the effects of long years of exploitation.

The exclusive economic zone should be used only for peaceful purposes. In that spirit the coastal State should allow freedom of navigation and overflight and the laying of cables and pipelines in the zone. He reaffirmed the land-locked countries' right to free access to and from the seas of those States.

Mr. JACOVIDES (Cyprus) said that, as a developing country, it supported the concept of the exclusive economic zone as expressed in the Algiers Declaration of which it was a signatory. However, its support was subject to two stipulations. The first was that in the case of narrow seas, where the national jurisdiction - including that of the economic zone - of opposite or adjacent States overlapped, the line of delimitation, failing agreement freely concluded on the basis of equality between the States concerned, should be the median line. Secondly, islands should be in the same position as continental territories and should therefore be entitled to the same rights as other territories in respect of the exclusive economic zone. His delegation's attitude to the draft proposals would be determined accordingly.

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(Mr. Jacovides, Cyprus)

The reasons for his delegation's position were set forth in its statements in the general debate on 12 July, on the territorial sea on 16 July and on the continental shelf on 30 July. Its arguments on the median line applied also to the exclusive economic zone.

Mr. BROWNE (Barbados) said that his country firmly supported the concept of the exclusive economic zone, which should include three essential elements: coastal State sovereignty over the renewable and non-renewable resources in the waters, sea-bed and subsoil; sovereign coastal State jurisdiction in preventing marine pollution and controlling marine scientific research; and clear and unequivocal provisions to meet the situation of developing disadvantaged coastal States in a region. The concept was a new legal order for the sea providing for a new and more balanced economic arrangement between developed and developing countries.

It might well be that negotiations would start for the specific formulation of the principles of the exclusive economic zone once the developed and maritime countries were willing to accept that the rules of the traditional freedoms of the sea as now interpreted by them would have to give way to a new and revised régime based on political and economic justice, which would permit the developing countries to exercise sovereignty and control over national sea resources, while accepting responsibility to ensure respect and protection for the legitimate interests of the community of nations in the uses of the sea, including navigation and shipping.

He rejected the views of the neo-traditionalists who paid lip service to support the exclusive economic zone, while advocating that the coastal developing countries should not be free to decide who should exploit their living resources, what quantity should be exploited or how they should be managed. That was an indirect attempt to leave the door open for the traditional distant water fishing nations which had enjoyed and sometimes abused the freedom of fishing in a region with which they had no geographical or economic connexion.

If the developed countries genuinely feared that protein supplies would be reduced because the developing coastal countries did not possess the economic and technical capacity to take and use the optimum catch from their offshore waters, they should speed up the transfer of technology under favourable conditions and recognize that the

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developing States had no intention of excluding fishing by other States, but wished only to ensure that such fishing was conducted under licence and under regulations consistent with State control and sovereignty and with the needs of the host country.

He supported the view that the coastal State should have sovereign rights for exploring and exploiting the living and non-living natural resources of the sea-bed and subsoil and the superjacent waters; and sovereign jurisdiction in respect of marine pollution in the zone of economic jurisdiction. Since, however, marine pollution was a global problem, it supported the establishment of certain minimum international standards for prevention and control of pollution. The coastal State should also have the sovereign right to authorize, control and regulate scientific research, provided authorization was not withheld unreasonably or subject to unreasonable terms.

While supporting the broad principles of the exclusive economic zone, he was concerned that the concept should be formulated so as to take into account the legitimate interests of the developing countries. Certain developing, geographically disadvantaged coastal countries, including his own, would not obtain any real economic benefit from the extension of sovereignty over living resources in a wide zone and might be adversely affected by the extension of zones of sovereignty by other coastal States in the same region. The legitimate interests of those countries, namely the need for their nationals to be given access on equitable terms to the living resources of the economic zones of other States in the same region, must be accommodated in the provisions which purported to deal with the exclusive economic zone beyond the territorial sea. Without such access, countries such as his own would suffer economic malnutrition in their own exclusive economic zone. Barbados was an island country, which had a small land area with few natural resources, and a dense

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(Mr. Browne, Barbados)

population to feed and support. It had a very narrow continental shelf, a negligible resident stock of fish and very few pelagic fish. The fishermen maintained themselves from coastal fisheries within a distance of about 20 miles from the coast, but more than half the national food consumption of fish and fish products had to be imported. Trawl and shrimp fishing had been developed recently in the waters of the region, which would fall within the economic zones of other States in the region if the economic zone concept were accepted in international law.

Any régime for the exclusive economic zone which did not contain provisions for access by developing geographically disadvantaged countries to the economic zones of other countries in the same region, on equitable terms, would only further widen the economic disparities between poor nations. Many developed and developing countries had expressed sympathy with the geographically disadvantaged countries and pledged support in principle for the inclusion of proposals for access in any convention on the law of the sea. His delegation had therefore been distressed on receiving the Nigerian proposal contained in document A/CONF.62/C.2/L.21.

The CHAIRMAN said that the representative of Barbados had exceeded the time limit.

In response to a plea from Mr. BROWNE (Barbados) that it was his delegation's first statement and that he merely wished to propose three guidelines based on the variants contained in the report of the Sea-Bed Committee, the CHAIRMAN said that he had every sympathy, particularly as Barbados had not been represented on the Sea-Bed Committee, but that there would be an opportunity to speak later, possibly under item 10.3 concerning the special interests and needs of developing shelf-locked States and States with narrow shelves or short coastlines.

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Mr. ACAKPO (Dahomey) said that his country had not participated in the work of the Sea-Bed Committee. The growing acceptance of the concept of an exclusive economic zone with a maximum breadth of 200 sea miles, as supported by the Organization of African Unity and by the non-aligned States, represented progress towards the establishment of a new legal régime for the sea.

The coastal State should exercise full sovereignty in that zone in respect of exploitation, exploration, preservation and utilization of all natural, mineral, vegetable and animal resources; and full legal powers of control and regulation to ensure rational exploitation and preservation of the sea's resources for the benefit of the inhabitants and the economy, and to supervise scientific research with a view to preventing and combating pollution. In the interests of economic development and national security, the coastal States needed as large an economic zone as possible. Consequently, a territorial sea with a maximum breadth of 200 nautical miles, incorporating the exclusive economic zone, would seem simpler and more logical than a territorial sea of only 12 miles with an exclusive economic zone of 200 nautical miles.

That idea had originated in Latin America and was based on the physical and juridical unity of the zone in respect of surface, water column and resources of the sea-bed and subsoil. Extension of the territorial waters to 200 nautical miles would not affect the interests of the international community, since the coastal State would ensure the traditional freedom of navigation and overflight and laying of cables and pipelines. It would also allow its land-locked neighbouring countries the right of access to the sea, free transit under bilateral or regional agreements and freedom to exploit the biological resources of the national maritime zone.

The coastal State would, of course, have full jurisdiction in the event of violation of the zone, by virtue of its sovereign rights over management and exploitation of the resources.

The Nigerian proposal, contained in document A/CONF.62/C.2/L.21, was an acceptable compromise.

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Mr. N'DAO (Mauritania) said that he would confine his comments to the exclusive economic zone, since his delegation had participated in the work of the Sea-Bed Committee. The Organization of African Unity had stressed the idea of the exclusiveness of the economic zone. The coastal State would exercise full sovereignty over the living and non-living resources, over scientific research and over the marine environment with a view to avoiding pollution. However, land-locked States would be allowed to participate in the exploitation of the living resources under bilateral or regional agreements. The legitimacy of such an arrangement had been recognized in 1958 in respect of part of the resources of the zone, namely in respect to the resources of the continental shelf, and the very powers which today were opposing it in respect of living resources of the water column superjacent to the continental shelf had already begun to recognize those privileges for the coastal State.

Practice and usage had shown that the coastal State could safeguard that special interest only by exercising full sovereignty over an area of sea adjacent to its territorial sea. Certain countries asserted that they agreed to an economic zone but that the coastal State should have exclusive sovereignty over its resources only if it could exploit them itself: they based their theory on the principle that the coastal State was incapable of finding any means of rational exploitation of surplus resources and that mankind would thus be denied vital resources. He himself was confident that no person or Government would allow resources that could serve the international community to perish. His country had concluded no less than 14 international agreements for exploiting the living resources of the waters under its jurisdiction, but it intended to conduct the exploitation as a sovereign State, without restraint and choosing its partners on the basis of reciprocal interest.

The corollary to that concept of exercise of jurisdiction by the coastal State was that the concept of contiguous zone should disappear from future law and the relevant privileges of the coastal State should be transferred to the exclusive economic zone.

To safeguard the interests of the international community, the freedom of navigation, overflight and laying of cables and pipelines should be recognized for

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all States in that zone provided they were exercised without prejudice to the sovereignty of the coastal State.

He welcomed with great interest the Nigerian proposals contained in document A/CONF.62/C.2/L.21, which seemed to offer a sound basis for reaching speedy agreement on the legal aspects of the concept of the economic zone.

Mr. ROSENNE (Israel) said that although a semi-enclosed sea like the Mediterranean did not lend itself to the kind of far-reaching claims to ocean space sometimes associated with the concept of an exclusive economic zone, his country had vested rights in the oceans under the existing concept of freedom of the high seas and under the three 1958 Geneva Conventions to which it was a party. It was, however, prepared to join with other countries in attempting to work out some relinquishment of those rights despite the disruption which that would cause.

Developing further the ideas he had expressed at the 16th meeting of the Committee he drew attention to the Nigerian draft articles in document A/CONF.62/C.2/L.21. The exclusive economic zone beyond the territorial sea to which that document referred had a number of possible economic purposes for the coastal State. The Secretariat report on problems of the acquisition and transfer of marine technology (A/CONF.62/C.3/L.3, table I, p.7) listed no fewer than 22 different types of marine activities, and that document even omitted some uses of ocean space, such as generation of energy and recreation. It had to be clarified which of those activities should be recognized in the economic zone and which should not.

His delegation accepted the view that the continental shelf ought to be retained as a separate concept. It was generally agreed that the coastal State enjoyed sovereign rights over the non-renewable resources of the shelf, including the sea-bed and subsoil. That idea, endorsed in the 1958 Continental Shelf Convention, had not been widely contested, even if some delegations considered that it could be improved in a number of important respects. However, any statement of principle containing the rather vague expression "sovereign rights" should be clarified by supplementary provisions corresponding to articles 2 and 3 of the 1958 Convention, making it clear beyond doubt that the waters above the continental shelf formed part of the high seas, and that the air space above those waters had a corresponding status. In other words,

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the rules on the continental shelf had to be structured in such a way as to preserve the proper balance, so laboriously worked out at Geneva in 1958, between the legitimate rights and interests of the coastal State and those of the rest of the world. That same structuring should also serve as the basis for defining the much broader concept of the "exclusive economic zone", a term which he used in a purely descriptive way, following the terminology of Conference documents, without intending to read any further implication into it.

With regard to renewable living resources of the sea and sea-bed, the real problem facing the Conference was to find a proper balance which would enable coastal States to meet their requirements for those resources while leaving the remainder, which in most cases would be considerable, to other States. Care must be taken not to move too fast in eliminating existing activities which were based on the principle that freedom of the high seas included freedom of fishing. The extent and rate of any phasing out of such activities would have to be carefully examined. Israel recognized the position of States which were overwhelmingly dependent for their livelihood or economic development on coastal fisheries, but it also had to be kept in mind, as the International Court of Justice had pointed out in the recent fisheries jurisdiction case, that any preferential position given to the coastal State did not have to be a static one.

His delegation doubted whether it was feasible to reach viable conclusions by approaching it on the question of fisheries in a piecemeal manner, or solely by discussing the present item. The question was related to a number of other items, in both the Second and Third Committees, and all its different elements had to be adequately brought out before any agreement could be drawn up.

He had similar doubts about the problem of pollution control. It was particularly important to realize that no agreement on that question could be contemplated until the conclusions to be reached by the Third Committee were available. For example, article 26 of the Kenyan proposal in document A/CONF.62/C.3/L.2, granting enforcement rights to coastal States against vessels "whether in their ports or in transit", not only failed to make it clear what areas of ocean space those rights covered, but also caused his delegation to wonder what would be left of the concept of freedom of the high seas, and even that of innocent passage in territorial waters, if such extensive rights were granted. Similar problems were raised by article 1, paragraph 2 (c) of the Nigerian draft in document A/CONF.62/C.2/L.21.

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(Mr. Rosenne, Israel)

With regard to article 1, paragraph 2 (d), of that draft, which covered the same ground as article 24 of the 1958 Convention on the Territorial Sea and the Contiguous Zone, his delegation believed that if the idea of a contiguous zone for limited purposes was retained, it should apply only to a distance of 12 nautical miles for those States which chose not to extend their territorial sea that far. In that connexion he had noted with interest the proposal contained in document A/CONF.62/C.2/L.27.

His delegation had stated its position fully on the question of scientific research in the economic zone at the 8th meeting of the Third Committee. It believed that freedom to carry out scientific research was an important element of freedom of the high seas which in principle ought to be preserved in that part of the high seas which would be within the economic zone. It accepted the position, however, that a balanced statement of law must be drawn up in which those carrying out the research would undertake obligations that would be in keeping with the rights of the coastal State. Those obligations could include certification by the flag State that the research was to be conducted by, or under the auspices of, a duly qualified institution, that the results of the research would be made available to the coastal State in an appropriate form, and that applicable international environmental standards would be observed. To a large extent those matters were already covered by article 5, paragraph 8, of the Continental Shelf Convention.

In that connexion, he wished to recall the valuable suggestion made by the representative of Norway at the 25th plenary meeting for establishment of a mandatory insurance pool to enable coastal States to receive compensation in cases where the traditional rules of liability proved to be inadequate. It would be useful to examine more thoroughly whether such protection could be extended to cover possible damage to the coastal State resulting from scientific research, including damage to its resources in the exclusive economic zone.

Although he had concentrated his remarks thus far on the Nigerian draft articles, he wished to reiterate that that document did not necessarily deal with all possible economic uses of the exclusive economic zone. Other uses should not be allowed to go by default or be left entirely to future interpretation.

If an economic zone was to be established beyond the territorial sea, infringement

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of the high seas character of the waters of the zone and the superjacent air space must be kept to an absolute minimum. His delegation therefore supported article 2, paragraph 1, of the Nigerian text, subject perhaps to drafting changes. There was a risk, however, that the excellent statement of principle contained in that paragraph could be virtually cancelled out by the kind of subjective formulation which some might read into article 3, paragraph 3, where use of the catch-all phrase "without reasonable justification" could open the door to all sorts of abuses. Those difficulties were increased by the statement in article 4, paragraph 1, that all other States were duty bound not to interfere with the exercise by the coastal State of its rights and competences. If the legal concept of the exclusive economic zone was based on that principle, the competences of the coastal State could, in effect, become virtually indistinguishable from the sovereignty exercised by that State over its territorial sea. His delegation was therefore unable to associate itself with those proposals, and, in particular, considered that they were not feasible in the semi-enclosed seas of the part of the world to which Israel belonged.

Israel's functional approach to the drafting of the law of the sea favoured identifying residual and in some cases preferential rights for the coastal State in the exclusive economic zone, in appropriate circumstances, always exclusively for economic purposes and not for mere administrative convenience. The zone must continue to be a part of the high seas for all purposes save implementation of strictly delimited economic rights, and the air space above it must have a corresponding status. In practical terms a great deal of analysis of the many purposes and functions which the exclusive economic zone was designed to fulfil remained to be done before much progress could be made in drafting. Not all that work could be undertaken by the Second Committee, and there was an obvious need for co-ordination with the other Main xxxx Committees, especially the Third Committee.

Mr. BALLAH (Trinidad and Tobago) said that his delegation saw an organic link between the three issues of the territorial sea, the exclusive economic zone, and regional, subregional or other arrangements for preferential or equal rights of access to living resources within exclusive economic zones or zones of national jurisdiction. In particular, it conditioned its acceptance of the concept of the 200-mile exclusive economic zone on recognition by the Conference of preferential or equal rights for every

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(Mr. Ballah, Trinidad and Tobago)

State within a region or subregion to the living resources of the economic zones of the other States. Moreover, it viewed those three issues as a package on which the Conference would have to take a single decision; it could not decide upon them separately.

Since the concept of the exclusive economic zone of 200 miles was new to international law, its adoption by the Conference would constitute a progressive development of the law, not a codification of existing law. Adoption of such a zone, by conferring on States exclusive rights to explore and exploit both living and non-living resources, would deprive other States in certain regions or subregions of rights to living resources to which they had had traditional access under existing law. In that regard, his delegation supported the statement made at the current meeting by the representative of Barbados. It was not opposed to the concept of the 200-mile exclusive economic zone, bold and novel as that concept was, but sought, together with a large number of other delegations, an accommodation of the existing rights of other States over the living resources of the zone. Such an accommodation was imperative for developing land-locked and other geographically disadvantaged States which depended to a large extent on the living resources of the sea for food and employment.

His delegation did not envisage a global accommodation of the rights of all States to the living resources of all economic zones or patrimonial seas of the world, but sought rather to accommodate the rights of States within a region or subregion. States within a subregion, particularly one bordered by a semi-enclosed sea, should have equal rights of access to the living resources of the exclusive economic zones of the other States of the subregion.

States of the region of which the subregion was a part should have preferential rights of access to the living resources of the exclusive economic zones of the other States of the region. His delegation understood the term "preferential rights" to refer to preferences vis-à-vis States of other regions, and the term "equal rights" to mean that States of a subregion had equal rights of access with respect to each other.

Accommodating the States of a region or subregion in the way he had indicated would not in any way derogate from the sovereignty of the State making the accommodation over its exclusive economic zone or patrimonial sea. In fact, such an accommodation would itself be an exercise of sovereignty.

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(Mr. Ballah, Trinidad and Tobago)

His delegation would, individually or in association with others, present appropriate articles for the Committee's consideration on that subject.

Mr. SURYADHAY (Laos) said that since the high seas were res communis or res nullius, it followed that everyone had the right to an equitable share in the exploration of high sea resources. Under contemporary law, the high seas were open to all nations, and no State could validly subject any part of them to its sovereignty.

However, the present trend was towards a race for the resources of the high seas. New sovereign States were emerging with a need for accelerated development, and there was a population explosion and very rapid progress in science and technology. If the frantic race for expropriation of the public domain were not checked in the new legal order of the sea, the work of the Conference would be doomed to failure, and the new concept of the common heritage of mankind would become a mockery.

As the representative of Switzerland had said, the Conference should regulate uses of the sea-bed and ensure that its exploration was peaceful and for the benefit of all mankind. The problem was basically one of peaceful coexistence and international social justice.

The coastal States which could extend their sovereignty and their power by expropriating public areas as they saw fit were in a fortunate position. Their actions worked to the detriment, however, of land-locked and other geographically disadvantaged States. The rich were getting richer, and the poor poorer. The high seas, as part of the public domain, should be subject to a special régime of co-operation for development, thus opening the door to accommodations based on traditional or historical considerations or on the new interdependence of nations. That would be for the benefit of all, particularly for countries which in the past had not had the good fortune to participate in the exploration and exploitation of marine resources.

His delegation's position was based on General Assembly resolutions 2467 A (XXIII) and 2749 (XXV) and on the Algiers and Kampala Declarations. Laos recognized the right of coastal States to establish 200-mile adjacent economic zones on the condition that, in return, non-coastal and other geographically disadvantaged countries enjoyed the right to explore and exploit those areas and to participate in the regulation of all types of resources in them on an equal footing with the coastal States of their region or subregion, and without discrimination. The methods for putting that right into

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(Mr. Suryadhay, Laos)

practice should be agreed upon by the States concerned for the purpose of promoting development of the fishing and other industries of the seas of land-locked countries. States which derived revenues from the exploitation of non-living resources in the economic zone should pay contributions to the international authority to enable it to fulfil its function of helping developing countries, particularly the least developed among them, to gain an equal share of those revenues.

His delegation's acceptance of the establishment of economic zones did not preclude the possibility of establishing regional or subregional economic zones in areas where States agreed to do so. In such cases, resources in the zone should be reserved for the common benefit of the States of the region or subregion, both land-locked and coastal.

Laos, like the delegations of other land-locked and geographically disadvantaged countries, found the viewpoint expressed in document A/AC.138/SC.II/L.39 reasonable and equitable. The public domain must not be expropriated without compensation, particularly in a world in which one heard denunciations of pillage, colonialism and imperialism and appeals for international co-operation. If the new international order of the seas was to be truly meaningful and effective, the concept of the common heritage of mankind must be based on sovereignty, interdependence and international social justice.

Mr. CAFLISCH (Switzerland) said that if there was to be an exclusive economic zone adjacent to the territorial sea, it must be so established as to create the least possible inequality between advantageously positioned coastal States and land-locked or geographically disadvantaged countries. A clear distinction must be made between the territorial sea and the proposed economic zone, because the two concepts served different purposes. In the territorial sea, which had originally been an area of security and exclusive fishery, the coastal State exercised complete sovereignty, apart from the right of innocent passage of foreign vessels. The coastal State had certain obligations in that sea, such as security of navigation and protection of the environment. The aims in establishing an exclusive economic zone were different and much more limited: the coastal State would be entitled to explore and exploit the living and non-living resources of the area and would be responsible for the preservation of the marine environment. Those limited aims and the jurisdiction

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(Mr. Caflisch, Switzerland)

required to achieve them must be precisely specified. The proposed economic zone must continue to be subject to the régime of the high seas in that it must be open to navigation, overflight and scientific research. The rights of navigation and overflight in the proposed zone must be fully and unequivocally guaranteed. That would not be possible if, as some delegations maintained, the jurisdiction of a coastal State over its contiguous zone was to be extended to the economic zone. There were three reasons for that. Firstly, the proposed economic zone and the contiguous zone served different purposes: within the economic zone, the coastal State would have exclusive exploitation rights over living and non-living resources; its sole competence in the contiguous zone would be the prevention and punishment of offences against certain rules designed to ensure the maintenance of order. Secondly, the type of jurisdiction to be exercised in each zone was completely different: in the exclusive economic zone, the coastal State would have legislative jurisdiction over natural resources and the preservation of the marine environment; in the contiguous zone, it would have the right to punish certain offences committed or to prevent offences likely to be committed by a vessel or its crew on the territory of the coastal State or in its territorial waters. Its competence did not extend to offences committed in the contiguous zone, and there could thus be no application of rules within that zone. Thirdly, the extension by the coastal State of its customs, fiscal, sanitary and immigration regulations to the economic zone would mean that those regulations could be applied to vessels and aircraft in transit through the zone. The régime governing the economic zone would then be very similar to that governing the territorial sea, thereby removing much of the practical effect of the theoretically guaranteed rights of navigation and overflight. His delegation therefore opposed the proposal to allow the coastal State to apply its customs, fiscal, sanitary or immigration regulations in the proposed economic zone. Nevertheless, the régime of the contiguous zone should be maintained for States whose territorial sea was less than 12 nautical miles wide.

His delegation, like those from other land-locked or geographically disadvantaged countries, felt that the establishment of an economic zone benefiting a limited number of coastal States would lead to inequality de jure and de facto, whatever legal form it might take. The institution of a régime of inequality would require

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(Mr. Caflisch, Switzerland)

compensation, which should be in the form of a right to participate directly or indirectly in the exploration and exploitation of the resources of the proposed economic zone. That right should benefit all land-locked or geographically disadvantaged States, developed or developing.

Mr. O'MEALLAIN (Ireland) said he had a number of comments to make on item 6.6.

Most species of fish taken for human consumption could be caught only in waters relatively close to the shore. The most effective way of ensuring that the fish stocks were so managed and exploited as to ensure the maximum sustainable yield was to enable the coastal State to establish a sufficiently wide fishery zone beyond its territorial sea, and for it to exercise fishery control throughout that zone. It could hardly be denied that, given skill, adequate equipment and manpower, the coastal State was best placed to ensure the most effective management and exploitation of the fish off its own shores. It would probably also be agreed, however, that should the coastal State be unable to exploit the fishing within its fishery zone to best advantage, provision should be made for other States to do so on a mutually advantageous basis. Consequently, the coastal State should have prior right of exploitation in an exclusive fishery zone regardless of the width of that zone, although that right should be exercised having regard to the legitimate interests of others. Coastal States should determine the size and allocation of catches, but such determination could be referred to a suitable organization which would advise on appropriate figures and on conservation measures to ensure maintenance of the maximum sustainable yield. The coastal State would be the enforcing authority, but there was no reason to believe that co-operation between it and the organization to which it would belong would be other than amicable and profitable. His delegation favoured an appropriate procedure for the settlement of disputes and would support a suitable proposal to that end.

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(Mr. O'Meallain, Ireland)

Accepting as it did the principle of maintaining any fish population at a level which would ensure maximum sustainable yield, his delegation believed that the State of origin of anadromous fish, with one species of which - salmon - Ireland was closely concerned, should carry the sole responsibility for management and control. In order to survive, anadromous fish had to return when fully grown to the rivers in which they had emerged from the eggs, and deposit in those rivers the ova from which the next generation would emerge and repeat the migration and reproduction cycle. It had to be pointed out, however, that salmon originating in one State could be taken in the fishery zone of a second State in such quantities as to make it necessary for the State of origin to permit all the salmon that might return from the second State's fishery zone to proceed to the spawning reaches. It might be necessary, as a consequence, to curtail or even prohibit the taking of the fish in the waters of the State of origin with consequent hardship to its own fisheries. The wider the zone the more acute was the problem. The State of origin could not therefore be expected to conserve a stock of fish the benefits of which it was partially or substantially precluded from enjoying. The State of origin could virtually eliminate the entire fish stock very rapidly by, for example, impounding the rivers frequented by the fish without making special and costly provisions to avoid such a consequence. The real solution was for the State of origin to be the sole harvester of the stock. His delegation intended to table an article on anadromous fish.

Mr. MYRSTEN (Sweden) observed that discussions over the previous few years had shown an unmistakable trend towards wider coastal State jurisdiction over marine resources.

The effect of introducing an unconditional economic zone in the North Sea would be disastrous for his country's fishermen. His Government felt that it would be too much to ask its fishermen to abandon their fishing grounds in the semi-closed seas where they had been fishing for hundreds of years just because the geographical configuration of the area would make those waters parts of the economic zones of neighbouring countries. His delegation saw the problem as a regional, or even subregional, problem. It seemed that quite a few other geographically disadvantaged States were in the same position. His delegation could readily accept the establishment

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(Mr. Myrsten, Sweden)

of economic zones in other regions of the world and hoped to see the States of those regions resolve their problems in a way that suited them taking into account the special characteristics of their regions.

In the light of the views he had expressed, he wondered whether a somewhat changed approach would perhaps make it easier to solve the problem of defining coastal State jurisdiction over marine resources. The Conference had been trying to devise a legal formula applicable throughout the world, but if the work was to succeed, regional and subregional considerations must play a greater part when defining the concept of an economic zone. More law-making should be delegated to the regions; rules should not be imposed upon nations in regions where the provisions did not fit. The countries of each region should solve their own problems within the framework of a set of generally applicable basic provisions. After all, his country had no material interest in regulating fisheries jurisdiction in other regions.

He drew the attention of the Committee to paragraph 9 of the OAU Declaration on the issues of the law of the sea (A/CONF.62/33). The provisions of that paragraph indicated one practicable way of taking regional problems into account. It reflected an admirable spirit of solidarity between the peoples of one continent - an example that should be followed by other continents.

Mr. MANNER (Finland) reiterated his delegation's position that if the idea of establishing an exclusive economic zone was widely supported, his delegation was prepared to take a positive stand on the inclusion of provisions on the economic zone in the proposed convention on the law of the sea, provided that they formed part of a larger package solution generally agreed upon by participating States. Nevertheless, he wished to clarify the way in which his delegation understood the legal consequences of the establishment of an economic zone.

A clear distinction had to be made between the territorial sea and the economic zone, especially with regard to their legal status and juridical nature. The economic zone should not be treated as some sort of extension of the territorial sea. The territorial sea, whose breadth should be a maximum of 12 nautical miles, was an inseparable part of the territory of a State. Consequently, the outer limit of the territorial sea was the sea frontier of the State with other States or with the high seas. The economic zone should be considered in principle as a high sea area in the

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(Mr. Manner, Finland)

same way that the continental shelf or fishery zone were considered part of the high seas under existing international law. The traditional freedoms of the high seas should therefore be maintained to the extent that the rights of the coastal State to explore the natural resources of the economic zone and the obligations ensuing from those rights did not prevent the exercise of those freedoms despite any jurisdiction or sovereignty the coastal State exercised in the economic zone. That principle should be stated clearly in the articles to be approved. The question of the nature of the economic zone must be clarified and agreed upon before the Committee could take a decision on the concept of the economic zone.

If the concept of an economic zone was accepted, it would be essential to create an equitable system that would permit the land-locked and other geographically disadvantaged States to participate in the exploitation of natural resources of the sea areas concerned.

The meeting rose at 7.15 p.m.

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